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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) | |
|---|--|--------------------------|--|
| <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>May 29, 2008</u></p> <p>Signature <u><i>Bruce Y. Arnold</i></u></p> <p>Typed or printed name <u>Bruce Y. Arnold</u></p> | | 25-269 | |
| | | Application Number | |
| | | 10/801,826 | |
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| | | 03/17/2004 | |
| First Named Inventor | | | |
| Toshiaki KATSUMA | | | |
| Art Unit | | Examiner | |
| 2627 | | ORTIZ-CRIADO, J. | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 28,493</p> <p>Registration number 703-759-2991</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.</p> <p>Registration number if acting under 37 CFR 1.34 May 29, 2008</p> <p>Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p> | | | |

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U.S. Application Number 10/801,826

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1, 2, 4, 16, 17 and 19 stand finally rejected under 35 U.S.C. 102(b) as being anticipated by Katayama et al. (JP Publication No. 09-054977 - hereinafter referred to as Katayama). The Examiner has improperly categorized item 23 of Katayama as being a "substrate", which it **clearly is not**. At best, it is a superstrate. The machine translation supplied by the Japanese Patent Office web server lists item 23 of Katayama as being a "phase compensation film". Moreover, it lists item 22 of Katayama as being a "wavelength filter film" and item 21 of Katayama as being a "glass substrate". More importantly, because the glass substrate 21 of Katayama does not include "... an **aperture** that is an **open space** of a specified size formed in a substrate ..." (emphasis added) as recited in line 2 of claim 1, claim 1 is clearly not anticipated by Katayama. Furthermore, the aperture limiting element of Katayama is **incapable** of performing the function of the present invention as set forth at page 4, lines 2 - 7, of Applicants' specification as filed, namely: "... the aperture limiting element of the present invention greatly reduces the amount of light that is reflected at the surface of the aperture limiting element and is then returned to the laser light source, thereby causing unwanted instability in the laser light source, while enabling the recent demand for thickness reduction of optical pickup devices to be met even when the aperture limiting element is placed on the optical axis of the optical pickup device." The glass substrate 21 of Katayama, when placed on the optical axis of an optical pickup device, would inherently reflect light (since there is no aperture that is an open space in the glass substrate 21), and the reflected light would cause unwanted instability in the laser light source. Because each of claims 2, 4, 16, 17 and 19 are dependent claims that, directly or indirectly, depend from claim 1, none of claims 2, 4, 16, 17 or 19 is anticipated by Katayama for the reason that these claims include the limitation in line 2 of claim 1 that is quoted above. Therefore, the final rejection of claims 1, 2, 4, 16, 17 and 19 should be reversed.

Claim 22 stands finally rejected under 35 U.S.C. 103(a) as being unpatentable over JP

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Publication No. 09-054977 (i.e., Katayama) in view of Kadowaki et al. (US-2001/0036142). Reconsideration of this rejection is respectfully requested. Claim 22 depends from claim 16, which in turn depends from claim 1. Thus, claim 22 includes all the limitations of claim 1. Moreover, Kadowaki et al. in no way makes up for the deficiency of claim 1 **not** being anticipated by Katayama, as discussed in the previous paragraph. Thus, the final rejection of claim 22 under 36 U.S.C. 103(a) should be reversed on the basis that Katayama in view of Kadowaki et al. does **not** suggest the feature "... an aperture that is an open space of a specified size formed in a substrate ..." as recited in line 2 of claim 1.